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BY ELECTRONIC FILING

Ms. Marlene H. Dortch—
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

**Re: 2002 Biennial Review Proceeding, WT Docket No. 03-264,
and Application File No. 0002271317**

Dear Ms. Dortch:

Crown Castle International (“CCI”), a commenter regarding 1670-1675 MHz band Power Spectral Density (“PSD”) limits in the Commission’s Biennial Review proceeding, WT Docket No. 03-264, and the corporate parent of OP LLC (“OP”), which has requested a waiver of Section 27.50(f)(1) of the Commission’s rules, takes this opportunity to respond to the November 8, 2006 submission of Aloha Partners (“Aloha”) in the Commission’s Biennial Review proceeding and Application File No. 0002271317. 1/ In its submission, Aloha, while emphasizing that it does not oppose the CCI and OP proposals, reiterates its request, first made in a November 2, 2006 filing, 2/ that the Commission not grant the PSD relief from Section 27.50(f)(1) sought by CCI and OP until the Commission is able to grant PSD relief to licensees in the lower 700 MHz band. 3/

In response to a November 6, 2006 filing by CCI pointing out that Aloha, unlike advocates for PSD limits in other bands, 4/ has submitted neither an alternate power per MHz proposal for PSD operations in the lower 700 MHz band nor any technical support for such a proposal, Aloha in its most recent filing suggests that the submission of such information is unnecessary and, even if it is necessary, the Commission should refrain from acting on any of the pending PSD proposals that are

1/ See Letter from Thomas Gutierrez, Counsel to Aloha Partners, to Marlene Dortch (Nov. 8, 2006) (“*November 8, 2006 Gutierrez Letter*”).

2/ See Letter from Thomas Gutierrez, Counsel to Aloha Partners, to Marlene Dortch (Nov. 2, 2006).

3/ See *November 8, 2006 Gutierrez Letter*.

4/ CCI has proposed that the licensee in the 1670-1675 MHz band be allowed to operate at a PSD limit of 4.00 kw per MHz EIRP in non-rural areas and 8.00 kw per MHz EIRP in rural areas. See Request for Waiver of OP LLC (Aug. 9, 2005); Comments of Crown Castle International in WT Docket No. 03-264 (Dec. 19, 2005) at 5. CTIA has proposed that licensees in the PCS and Part 27 AWS bands be allowed to operate at a PSD limit of 3.28 kw per MHz EIRP in non-rural areas and 6.56 kw per MHz EIRP in rural areas. See Comments of CTIA in WT Docket No. 03-264 (Dec. 19, 2005).

November 15, 2006

Page 2

already ripe for decision until Aloha has submitted the information necessary for the Commission to promulgate PSD rules for the lower 700 MHz band. 5/

As CCI indicated in its November 6, 2006 submission, it is unclear from the limited material provided by Aloha what PSD limit it believes should apply to the lower 700 MHz band. Without such information, the Commission would, at best, have a difficult time setting a PSD limit for the band. Any proposed lower 700 MHz PSD limit would also have to be accompanied by an analysis demonstrating why the proposed PSD limit would not cause harmful interference to co-channel or adjacent channel users that have a right to be protected. The interference analysis required to determine an appropriate PSD limit is highly band specific, depending on factors such as the existing power limits applicable to the band, out-of-band emission limits, and the type of technology already deployed or proposed to be deployed in the band. The OP and CCI proposals for an alternate PSD limit in the 1670-1675 MHz band address these issues, and all of the spectrum users that would be affected by the proposals have analyzed the proposals and reached agreement regarding how they can be implemented, making the record regarding such proposals ripe for Commission action. By contrast, none of those issues have been addressed by Aloha in its request that the Commission establish a PSD limit for the lower 700 MHz band.

As CCI stated in its November 6, 2006 submission, "it is certainly appropriate for the Commission to address CCI's proposal for the 1670-1675 MHz band at this time. On the other hand, it would be inappropriate and unjust for the Commission to refrain from acting on CCI's PSD proposal for the 1670-1675 MHz band merely because the record relating to other spectrum bands has not been sufficiently developed to warrant Commission action regarding those bands at this time." 6/

I request that this letter be submitted into the record of the FCC's Biennial Review proceeding, WT Docket No. 03-264, and the pending waiver application proceeding, Application File No. 0002271317.

Sincerely,



Ari Q. Fitzgerald

Counsel to Crown Castle International Corp.

cc: Thomas Gutierrez, Esq.
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5/ See November 8, 2006 Gutierrez Letter.

6/ Letter from Ari Fitzgerald, Counsel to Crown Castle International, in WT Docket No. 03-264 and Application File No. 0002271317 (Nov. 6, 2006) at 2.